EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1347-MLM-E

TCEQ ID: RN101979466

CASE NO.: 34432

RESPONDENTS NAMES: TEX-WAVE INDUSTRIES, L.P., TEX-WAVE MANAGEMENT, L.L.C.,
DAVID CROFT, AND MONTY GUILES

ORDER TYPE:		
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
_AMENDED ORDER	EMERGENCY ORDER	
CASE TYPE:		
<u>X</u> AIR	X MULTI-MEDIA (check all that apply)	X INDUSTRIAL HAZARDOUS WASTE
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
facility location. INTERESTED PARTIES: No one other th COMMENTS RECEIVED: The Texas Reg CONTACTS AND MAILING LIST:	No e are no complaints. There is no record of addition and the ED and the Respondents expressed an in ister comment period expired June 29, 2009.	No comments were received.
TCEQ Attorney: Mr. Gary K.Shin Ms. Lena Rober TCEQ Enforcement Coordinator: TCEQ Regional Contact: Mr. Bra Respondents: Tex-Wave Industrie: L.L.C., 2802 N. Shoreline Blvd., Co. 78380; Mr. Monty Guiles, 409 Indu Respondents' Attorneys: Mr. Ren	a, Litigation Division, MC R-12, (713) 422-89 ts, Litigation Division, MC 175, (512) 239-001 Mr. Clinton Sims, Waste Enforcement Section Genzer, Corpus Christi Regional Office, MC s, L.P., 2802 N. Shoreline Blvd., Corpus Christi Prpus Christi, Texas 78402; Mr. David Croft, 4 strial Avenue, Robstown, Texas 78380 é Rodriquez, Law Offices of René Rodriquez, 8401; Mr. Bradley A. Smith, Nicolas, Morris, Oscience Rodriguez, Mr. Bradley A. Smith, Nicolas, Mr. Bradley A. Smith, Mr. Bradl	19 on, MC 169, (512) 239-6933 CR-14, (361) 825-3106 ti, Texas 78402; Tex-Wave Management, 09 Industrial Avenue, Robstown, Texas 433 S. Tancahua, Corpus Christi,

5926 South Staples, Suite A-2, Corpus Christi, Texas 78413

RESPONDENTS: TEX-WAVE INDUSTRIES, L.P., TEX-WAVE MANAGEMENT, L.L.C., Page 2 of 2 DAVID CROFT, AND MONTY GUILES DOCKET NO.: 2007-1347-MLM-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:	Total Assessed: \$38,640	Ordering Provisions:
Complaint X Routine Enforcement Follow-up Records Review	Total Deferred: \$0 Expedited Order Financial Inability to Pay SEP Conditional Offset	The Respondents shall undertake the following technical requirements: 1. Within 30 days:
Date of Complaint Relating to this Case: None	Total Paid/Due to General Revenue: \$1,840/\$36,800	a. Submit updates to the Notice of Registration ("NOR") to include the date in which operations ceased;
Dates of Investigation Relating to this Case: March 7, 2007 and May 31, 2007 Date of NOE Relating to this Case: June 15, 2007	The Respondents paid \$1,840 of the administrative penalty. The remaining amount of \$36,800 shall be payable in 23 monthly payments of \$1,600 each. Site Compliance History Classification	b. Maintain all records for hazardous and industrial waste activities, land disposal restrictions and retain copies of each manifest for a minimum of three years from the date of shipment; and
Background Facts: The EDPRP was filed January 29, 2008. The Respondents each filed an answer and the case was referred to SOAH. The EDFARP was filed May 21, 2008. Settlement was achieved and a	_X High _ Average _ Poor Person Compliance History Classifications _ X High _ Poor	c. Notify the TCEQ concerning closure activities for the 8 tanks.
signed Agreed Order was received January 21, 2009.	Major Source: X Yes No	2. Within 60 days:
Current Compliance Status: Not yet in compliance.	Applicable Penalty Policy: September 2002	Remove and properly dispose of approximately 370,000 gallons of acid and caustic waste found in the seven tanks at the Facility; and
MLM:		b. Close the 8 tanks at the Facility.
1. Failed to have hydrochloric acid in an enclosed building [30 Tex. ADMIN. CODE § 106.375(2)(B)].		3. Within 75 days, submit written certification demonstrating compliance with these Ordering Provisions.
2. Failed to update the Notice of Registration ("NOR") to reflect current site conditions [30 Tex. Admin. Code § 335.6(c)].		
3. Failed to maintain all records for hazardous and industrial waste activities, failing to maintain copies of each manifest for a minimum of three years from the date of shipment, and failing to maintain records for land disposal restrictions [30 Tex. ADMIN. CODE §§ 335.9(a)(1), 335.13(i), 335.431(c) and 40 CFR §§ 262.40(a) and 268.7(a)(8)].		
4. Failed to comply with hazardous waste tank requirements and to conduct adequate tank closure [30 Tex. Admin. Code §§ 335.69(a)(1)(B), 335.112(a)(9) and 40 CFR §§ 262.34(a)(1)(ii) and 265.197].		

The state of the s	Penalty Calculatio	n Worksheet (Po		on June 26, 2007
Policy Revision 2 (Septer	mber 2002)			
	25-Jun-2007 15-Aug-2007 Screening 5-Aug-2007	EPA Due		
RESPONDENT/FACILITY II	NFORMATION			
Respondent	ex-Wave Industries, L.P., Tex-Wave Mana	agement, L.L.C., David Croft,	and Monty Guiles	_
Reg. Ent. Ref. No. F	RN101979466			
Facility/Site Region 1	4-Corpus Christi	Major/Minor Source	IWajui	
CASE INFORMATION				
Enf./Case ID No. 3	4432	No. of Violations		
Docket No. 2	007-1347-MLM-E	Order Type		
Media Program(s)	ndustrial and Hazardous Waste	Enf. Coordinator	EnforcementTeam 7	-
Multi-Media	mit Minimum \$0 Maximum	\$10,000	Linoisonisis	
Admin. Penalty \$ Li	mit willimum 40 maximum	ψ10,000		
	Penalty Calcula	ation Section	· ·	
er e	The state of the s	The control of the co	Cubtotal 1	\$27,600
TOTAL BASE PENAL	ΓΥ (Sum of violation base penalti	es) en de la latin de	Subtotal 1	V2.,000
ADJUSTMENTS (+/-)	O SURTOTAL 1			
Subtotals 2-7 are obtained	ed by multiplying the Total Base Penalty (Subtotal 1) b	y the indicated percentage.	in the second	40 700
Compliance Histo		Enhancement Subt	otals 2, 3, & 7	-\$2,760
	D. J. C. J. J. L. Lieb newform	or electification		
Notes	Reduction due to high perform	iei ciassification.		
P. D. P.		and the second s		\$0
Culpability	No 0%	6 Enhancement	Subtotal 4	\$0
Nistan	The Respondent does not meet the	ne culnability criteria.		
Notes	The Respondent does not meet a			
	to Comply 09	6 Reduction	Subtotal 5	\$0
Good Faith Effort	Before NOV NOV to EDPRP/Settlement Offer	the first of the f	aliana Marita Santa Santa da Abani il	
Extraordinary	Belorettov			
Ordinary		4 / 44 / 45 / 45 / 45 /		
N/A	x (mark with x)		7	<u>.</u>
Notes	The Respondent does not meet the	ne good faith criteria.	and the second second	
	509	∕₀ Enhancement*	Subtotal 6	\$13,800
	104125741164116	ed at the Total EB \$ Amount		
Approx. 0	Cost of Compliance \$946,300			
OUNT OF CURTOTAL	sar a e o la companio de la companio della companio		Final Subtotal	\$38,640
SUM OF SUBTOTALS	Politik a ingana na Alika inao sa iso	and the second of the second s	A Committee of the second	
OTHER EACTORS AS	S JUSTICE MAY REQUIRE		Adjustment	\$0
Reduces or enhances the Final S	ubtotal by the indicated percentage. (Enter number of	nly; e.g30 for -30%.)	¬	
Notes				
		Einal Pe	enalty Amount	\$38,640
		Fillal F	enalty Amount	
OTATUTODY LIMIT A	DUICTMENT	Final Ass	essed Penalty	\$38,640
STATUTORY LIMIT A	(DJUST INIENT			
DECEDRAL	ing the control of the regular term to the	Reduction	Adjustment	\$0
DEFERRAL Reduces the Final Assessed Pen	alty by the indicted percentage. (Enter number only;	I I' .	- 	
Notes	Deferral not offered for non-ex	pedited settlement.		
	Light, and the second of the second of the	ere germijarnijas njælætiks sår		\$38,640
PAYABLE PENALTY				ψ30,040

Screening Date 5-Aug-2007

Docket No. 2007-1347-MLM-E

PCW

Respondent Tex-Wave Industries, L.P., Tex-Wave Management, L.L.

Policy Revision 2 (September 2002) PCW Revision June 26, 2007

Case ID No. 34432

Reg. Ent. Reference No. RN101979466

Media [Statute] Industrial and Hazardous Waste

	oliance History Component	Site Enhancement (Subtotal 2) Number of	nter Number Here	Adjust.
	NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
		Other written NOVs	0	0%
		Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
	Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
	Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
	Emissions	Chronic excessive emissions events (number of events)	0	0%
	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%
	, adilo	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
		Plea	se Enter Yes or No	
		Environmental management systems in place for one year or more	No	0%
4.5	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Outer	Participation in a voluntary pollution reduction program	No	0%
		Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
> Repe	eat Violator (Su		ercentage (Su	ıbtotal 2) 🔃
	No		ercentage (Su	ıbtotal 3)
> Com	pliance Histor	y Person Classification (Subtotal 7)		
	High Per	former Adjustment P	ercentage (Su	ıbtotal 7) 🔃 -
> Com	pliance Histor	y Summary		
	Compliance	Reduction due to high performer classification.		

Screening Date 5	5-Aug-2007	Docket	No. 2007-1347-MLM-E	The second secon	PCW
	Tex-Wave Industries, L.P.,	Tex-Wave Manageme	ent, L.L.C., Davii	Policy Revision 2 (S	eptember 2002)
Case ID No. 3				PCW Revisio	n June 26, 2007
Reg. Ent. Reference No. F					***************************************
	Industrial and Hazardous W	/aste			***************************************
Enf. Coordinator (Clinton Sims				ni processi di constanti di con
Violation Number	1]	. Yan			
Rule Cite(s)	30	Tex. Admin. Code §	106.375(2)(B)		
Violation Description	Failed to have hydrochlo investigation conducted of hydrochloric acid were located to the conduction of the cond	on March 7, 2007. Sp	ecifically, three acid tank	s containing	
	,			Base Penalty	\$10,000
>> Environmental, Property a	nd Human Health Ma	rix			
	Harm			an Columbia B	
Release	Major Moderate	Minor			
OR Actual			Percent 2	5%	
Potential	\X	<u></u>	reroent	3 70]	
>>Programmatic Matrix					
Falsification	Major Moderate	Minor			
			Percent	0%]	***************************************
Matrix Notes Human healtr would not exc	h or the environment will or eed levels that are protecti	could be exposed to ve of human health or this violation.	significant amounts of portion environmental receptors	s as a result of	
			Adjustment	\$7,500	***************************************
			AND AND AND COMMENT OF THE PROPERTY OF THE PRO		00.500
-	•				\$2,500
Violation Events					
Number of Vio	olation Events 2	15	Number of violatio	n days	
		<u> </u>		•	
	daily]	•		
	monthly	<u> </u>	Violation	Base Penalty	\$5,000
mark only one with an x	quarterly x semiannual	1	Violation	Dage / Charty	
	annual	· ·			
	single event				
			<u> </u>		
Two quarterly	events are recommended d	from the investigation ate of August 5, 2007		the screening	***************************************
Economic Benefit (EB) for the	is violation		Statutory Limi	t Test	
Fetimater	d EB Amount	\$385	Violation Fina	Penalty Total	\$7,000
	-				\$7,000
		This violation Final A	Assessed Penalty (adju	stea for limits)	Ψ1,000

\$0 \$0 \$0 \$366	\$0 \$0 \$0 \$385 \$0
\$0 \$0 \$0 \$0 \$0 \$10 \$10 \$10 \$10 \$10 \$10 \$	\$0 \$0 \$0 \$0 \$0
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	ne investigation dat

Screening Date	5-Aug-2007	Docket	No. 2007-1347-MLM-E	PCW
Respondent	Tex-Wave Industries, L.	P., Tex-Wave Manageme	nt, L.L.C., David	Policy Revision 2 (September 2002)
Case ID No.	34432			PCW Revision June 26, 2007
Reg. Ent. Reference No.	RN101979466			
Media [Statute]	Industrial and Hazardou	s Waste		
Enf. Coordinator	Clinton Sims			
Violation Number	2		No. of the last of	
Rule Cite(s)		30 Tex. Admin. Code	§ 335.6(c)	
Violation Description	investigation conducted the NOR to include the	on March 7, 2007. Spec	(NOR), as documented during an iffically, the Respondent did not uity. The facility is required to docustion of any such changes.	update
			Base F	Penalty \$10,000
>> Environmental, Property a	nd Human Health N	// Aatrix		
	Harm		interes e estado de la composição de la	
Release	Major Moderat	e Minor		· · ·
OR Actual			Percent 0%	
Potential			reiteit 070	
>>Programmatic Matrix				
Falsification	Major Moderat	e Minor		,
		X	Percent 1%	
Matrix Notes	More than	70% of the rule requireme	ent was met.	
			Adjustment	\$9,900
			Additional Resolution (Appen — pipelane make a black for the are	6400
				\$100
Violation Events				
Number of Vio	plation Events 1	15	1 Number of violation days	
				
	daily		•	
	monthly		Waladan Basa I	Penalty \$100
mark only one with an x	quarterly		Violation Base I	Penalty \$100
with an x	semiannual annual			
	single event x			
	And an allowed the second seco			
	One	e single event is recomme	ended.	
. L				
Economic Benefit (EB) for th	is violation		Statutory Limit Test	
Estimate	d EB Amount	\$16	Violation Final Penals	ty Total \$140
			Annual Danathe (adlicated for	· limits) \$140
		This violation Final A	Assessed Penalty (adjusted for	mmts) \$140

N		lazardous Waste				Percent interest	Years of Depreciation
Violation No.	, 2 , 2 , 1 4		njana – Nizinyo				the state of the state of the
	Kama Cant	Data Damirad	Final Date	V	Interest Saved	5.0 Onetime Costs	15 EB Amount
	Item Cost	Date Required	Final Date	115	interest Saved	Onetime Costs	ED AIIIOUIII
Item Description	No commas or \$			2 7 2 4 4			and distant
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Delayed Costs		1	<u> </u>	0.0	\$0	\$0	\$0
Equipment				0.0	\$0	\$0	\$0 \$0
Buildings Other (as needed)				0.0	\$0	\$0	\$0 \$0
Engineering/construction				0.0	\$0	\$0	\$0
Engineering/construction Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a = 1	\$0
Other (as needed)	\$300	7-Mar-2007	11-Apr-2008	1.1	\$16	n/a	\$16
	Estimated cos	i io submit ubuates					
Notes for DELAYED costs	Estimated cos	t to submit updates			of Compliance.		
Avoided Costs		•	the Estimate	d Date on	of Compliance.	one-time avoided c	
Avoided Costs		•	the Estimate	d Date on tering	of Compliance. item (except for \$0	one-time avoided c	\$0
Avoided Costs Disposal Personnel		•	the Estimate	ntering	item (except for \$0 \$0	one-time avoided c	\$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling		•	the Estimate	ntering 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0	\$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment		•	the Estimate	ntering 0.0 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]		•	the Estimate	ntering 0.0 0.0 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment		•	the Estimate	ntering 0.0 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0

Screening Date	≱ 5-Aug-2007	Docket	No. 2007-1347-MLM-E		PCW
Responden	t Tex-Wave Industries, L.F	P., Tex-Wave Manageme	nt, L.L.C., David	Policy Revision	2 (September 2002)
Case ID No	. 34432			PCW Re	evision June 26, 2007
Reg. Ent. Reference No	. RN101979466				
Media [Statute	Industrial and Hazardous	s Waste			
Enf. Coordinator	r Clinton Sims				
Violation Number					
Rule Cite(s		e §§ 335.9(a)(1), 335.13(Regulations §§ 262.40(a) a	i), 335.431(c), 40 Code of Fe and 268.7(a)(8)	deral	
Violation Description	maintain copies of e shipment and failed to during an investigation investigation hazardou reports, source redu	each manifest for a minim maintain records for land n conducted on March 7, 2 s waste determination do ction/waste minimization p	d industrial waste activities, fa um of three years from the da disposal restrictions, as doct 2007. Specifically, at the tim- cumentation, annual waste si plan, solid waste management sposal restrictions documentals.	ate of umented e of the ummary nt unit	
			Bas	e Penalty	\$10,000
>> Environmental, Property	and Human Health M	atrix			
	Harm				
Release		Minor			
OR Actua			*	/	
Potentia	ll		Percent 0%		
>>Programmatic Matrix					
Falsification	n Major Moderate	Minor			
T disincation	x x	, Willion	Percent 25%		
					Co-
Matrix Notes	100% of	the rule requirement was	not met.		
			Adjustment	\$7,500	demonstration
deberman karing diri di	- da-andra habitati far ett generalisis, v. e.	etern of refr and Alba Antonia (ab.) in a 1700 of the after 1904 To the after 1904 the annual for a sharple the substance	-		\$2,500
የማስረሰነ በታሪ ዓ.አ. ከመኖሎኒ ምን ማስማ ያሚያያያያያያያ መንግ ሃ እና የሚያያያያያመስ ከአገበታና ፎ የአስበነር ለመለግ አውን ማይታር ነው ነው ነው ነው ነው ነው ነው ነ					
Violation Events					
Number of Vi	iolation Events 1	151	Number of violation day	We.	
	Olation Events 1		I validet of violation day	,5	
	daily	7			
	imonthly				
mark only one	quarterly		Violation Bas	e Penalty	\$2,500
with an x	semiannual				***************************************
	annual	_			***************************************
	single event x				
-					
	One	single event is recommer	nded.		***************************************
Economic Benefit (EB) for th	าis violation		Statutory Limit Te	st .	
Estimate	ed EB Amount	\$55	Violation Final Pen	alty Total	\$3,500
	1				
	A the state of the	This violation Final As	ssessed Penalty (adjusted f	or limits)	\$3,500
 Leading a line of the converse data and at 1985 to Automorphism of Tentral Conference 	化环烷基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲基甲	 1. 本心的表表的語言。在一种心态中的人类是有关的类型。 	 Control of the Control of the Control	 本品表面自然的。或者學問題時代或指定 	 a. a. a

	. 34432						
Reg. Ent. Reference No.						por a construction of the	
Media	Industrial and F	lazardous Waste				Percent Interest	Years of
Violation No.	. 3						Depreciation
그 김 명명 중요하는 그렇다.						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0 \$0
Engineering/construction				0.0	\$0 \$0	\$0	\$0 \$0
Land	\$1,000	7-Mar-2007	11-Apr-2008	0.0 1.1	\$55	n/a	\$55
Record Keeping System Training/Sampling	\$1,000	7-Mai-2007	11-Apr-2006	0.0	\$0	n/a	\$0
Remediation/Disposal	<u></u>			0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)							
, ,	Estimated	cost to maintain re	cord keeping requ	0.0 irements	\$0 s for waste activities	es, manifests, and la	\$0 and disposal
Notes for DELAYED costs Avoided Costs Disposal	requirements.	The Date Required	is the investigatio	irements n date a	s for waste activities and the Final Date	es, manifests, and la is the estimated dat one-time avoided o	ind disposal e of compliance costs)
Notes for DELAYED costs Avoided Costs Disposal Personnel	requirements.	The Date Required	is the investigatio	n date a	s for waste activitiend the Final Date item (except for \$0 \$0	es, manifests, and la is the estimated dat one-time avoided c	ind disposal e of compliance costs) \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	requirements.	The Date Required	is the investigatio	n date a	s for waste activitiend the Final Date item (except for \$0 \$0 \$0	es, manifests, and la is the estimated dat one-time avoided or \$0 \$0 \$0	e of compliance sosts) \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	requirements.	The Date Required	is the investigatio	n date a	s for waste activitiend the Final Date item (except for \$0 \$0 \$0 \$0 \$0 \$0	es, manifests, and la is the estimated dat one-time avoided c \$0 \$0 \$0 \$0	nd disposal e of compliance sosts) \$0 \$0 \$0 \$0
Avoided Costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	requirements.	The Date Required	is the investigatio	n date an date an date an date an date an date and date a	s for waste activitiend the Final Date item (except for \$0 \$0 \$0	es, manifests, and la is the estimated dat one-time avoided or \$0 \$0 \$0	e of compliance sosts) \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	requirements.	The Date Required	is the investigatio	n date a	s for waste activities and the Final Date item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	es, manifests, and la is the estimated dat one-time avoided construction \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	and disposal e of compliance sosts) \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	requirements.	The Date Required	is the investigatio	ntering 0.0 0.	s for waste activitiend the Final Date item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	es, manifests, and la is the estimated dat one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
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Screening Da	te 5-Aug-2007	Docket No	. 2007-1347-MLM-E	PCW
Responde	nt Tex-Wave Industr	ies, L.P., Tex-Wave Management, l	L.L.C., David	Policy Revision 2 (September 2002)
Case ID N	o. 34432		•	PCW Revision June 26, 2007
Reg. Ent. Reference N	o. RN101979466		.	The state of the s
Media [Statut	e] Industrial and Haz	zardous Waste		The state of the s
Enf. Coordinat	or Clinton Sims			***
Violation Numb	er 4			
Rule Cite	(s) 30 Tex. Adm	n. Code §§ 335.69(a)(1)(B), 335.112 Regulations§§ 262.34(a)(1)(ii)		eral
Violation Descripti	closure, as Specifically, the F to remove appro	with hazardous waste tank requirem documented during an investigation Respondent had 90 days from the da eximately 370,000 gallons of acid an at the facility. In addition the Respo eight tanks at the faci	conducted on May 31, 200 ate operations at the facility ad caustic waste found in se andent failed to properly clo	77. ceased even of
			Base	Penalty \$10,000
>> Environmental, Propert	and Human He	alth Matrix		
	A . C. A	Harm		
Relea		oderate Minor	•	-
OR Act	<u> </u>			
Poten	ial	x	Percent 25%	
>>Programmatic Matrix				
Falsification	on Major M	oderate Minor	Percent 0%	
			reiceili 070	
		ent will or could be exposed to signit e protective of human health or envi this violation.		
			Adjustment	\$7,500
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				\$2,500
Violation Events				
Number of	Violation Events	8 66	Number of violation days	
	daily monthly		Violation Base	Penalty \$20,000
mark only o with an x	e quarterly semiannual annual single event	x	Violation base	Penalty \$25,000
	Eight s	ingle events are recommended, one	e per tank.	
Economic Benefit (EB) for	this violation		Statutory Limit Test	
Estima	ted EB Amount	\$47,258	Violation Final Penal	ty Total \$28,000
		This violation Final Asses	ssed Penalty (adjusted to	r limits) \$28,000
Control of the Contro	an come of the east of the east of the fact of the fact of the			William VIII

Reg. Ent. Reference No Media Violation No							
		I 1014-				en 1800 mark Markett far	Years of
Violation No		lazardous Waste				Percent Interest	Depreciation
	. 4	gwen e na ta ta in in in in in	age growing and a six of		y a real way		
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$	ta Balaka					
	110 00111100 01 4.	and the second second			to a the said substitute		
Delayed Costs	e seed to be a seed to	ervijas estis ili					
Equipment		T	1	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Lingingering/constitution				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a #aaa	\$0
Remediation/Disposal				0.0	\$0	∴ n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$940,000	10-Apr-2007	11-Apr-2008	1.0	\$47,258	n/a	\$47,258
	Estimated cos	t to remove and pr	operly dispose of a	pproxim	ately 370,000 gall	ons of acid and caus	stic waste in the
Notes for DELAYED costs	Estimated cos seven tanks, a	t to remove and pr t \$2.00 a gallon ar date operations	roperly dispose of a nd to properly close ceased and the Fir	pproxim down a	ately 370,000 gall Il eight tanks. The is the estimated o	ons of acid and cause Date Required is 9 late of compliance.	stic waste in the 0 days after the
Notes for DELAYED costs Avoided Cost:	Estimated cos seven tanks, a	t to remove and pr t \$2.00 a gallon ar date operations	roperly dispose of a nd to properly close ceased and the Fir	pproxime down a nal Date	ately 370,000 gall ill eight tanks. The is the estimated of item (except for	ons of acid and cause Date Required is 9 late of compliance. one-time avoided c	stic waste in the 0 days after the
Notes for DELAYED costs Avoided Cost: Disposal	Estimated cos seven tanks, a	t to remove and pr t \$2.00 a gallon ar date operations	roperly dispose of a nd to properly close ceased and the Fir	pproximated down a mal Date	ately 370,000 gall ill eight tanks. The is the estimated of item (except for \$0	ons of acid and cause Date Required is 9 late of compliance.	stic waste in the 0 days after the costs)
Notes for DELAYED costs Avoided Cost: Disposal Personnel	Estimated cos seven tanks, a	t to remove and pr t \$2.00 a gallon ar date operations	roperly dispose of a nd to properly close ceased and the Fir	pproxime down a nal Date	ately 370,000 gallill eight tanks. The is the estimated collection in the state of	ons of acid and cause Date Required is 9 late of compliance.	stic waste in the 0 days after the costs)
Notes for DELAYED costs Avoided Cost: Disposal Personnel Inspection/Reporting/Sampling	Estimated cos seven tanks, a	t to remove and pr t \$2.00 a gallon ar date operations	roperly dispose of a nd to properly close ceased and the Fir	pproximate down a nal Date	ately 370,000 gallill eight tanks. The is the estimated collection (except for \$0 \$0 \$0	ons of acid and cause Date Required is 9 late of compliance. one-time avoided compliance some some some some some some some som	stic waste in the 0 days after the costs) \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Cost: Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	Estimated cos seven tanks, a	t to remove and pr t \$2.00 a gallon ar date operations	roperly dispose of a nd to properly close ceased and the Fir	pproxime down a nal Date ntering 0.0 0.0 0.0 0.0	ately 370,000 gallill eight tanks. The is the estimated color item (except for \$0 \$0 \$0 \$0 \$0	ons of acid and cause Date Required is 9 late of compliance. one-time avoided compliance so	stic waste in the 0 days after the costs) \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Cost: Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated cos seven tanks, a	t to remove and pr t \$2.00 a gallon ar date operations	roperly dispose of a nd to properly close ceased and the Fir	pproxime down a nal Date ntering 0.0 0.0 0.0 0.0 0.0 0.0	ately 370,000 gallill eight tanks. The is the estimated color item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	ons of acid and cause Date Required is 9 late of compliance. one-time avoided compliance so	stic waste in the 0 days after the costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Cost: Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	Estimated cos seven tanks, a	t to remove and pr t \$2.00 a gallon ar date operations	roperly dispose of a nd to properly close ceased and the Fir	pproxime down a nal Date ntering 0.0 0.0 0.0 0.0	ately 370,000 gallill eight tanks. The is the estimated color item (except for \$0 \$0 \$0 \$0 \$0	ons of acid and cause Date Required is 9 late of compliance. one-time avoided compliance so	stic waste in the 0 days after the costs) \$0 \$0 \$0 \$0 \$0

Compliance History Report

Customer/Respondent/Owner-Operator:

CN603170671

TEX WAVE INDUSTRIES LP

Classification: HIGH

Rating: 0.00

Regulated Entity:

RN101979466

TWI GALVANIZING

Classification: HIGH

Site Rating: 0.00

ID Number(s):

AIR NEW SOURCE PERMITS

ACCOUNT NUMBER

NE0499W

AIR NEW SOURCE PERMITS INDUSTRIAL AND HAZARDOUS WASTE **PERMIT ID NUMBER** 50274 87740

87740

GENERATION

INDUSTRIAL AND HAZARDOUS WASTE

EPAID

TXR000064535

GENERATION

INDUSTRIAL AND HAZARDOUS WASTE

SOLID WASTE REGISTRATION #

GENERATION

(SWR)

Location:

450 INDUSTRIAL AVE, ROBSTOWN, TX, 78380

TCEQ Region:

REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared:

May 22, 2009

Agency Decision Requiring Compliance History:

Enforcement

Compliance Period:

May 22, 2004 to May 22, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Clinton Sims

Phone:

239 - 6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

2. Has there been a (known) change in ownership/operator of the site during the compliance period?

Yes

3. If Yes, who is the current owner/operator?

OWNOPR

TEX WAVE INDUSTRIES LP

OWNOPR

Meecorp Capital Markets LLC

OPR

Tex-Wave Management, LLC

4. if Yes, who was/were the prior owner(s)/operator(s)?

OWN

5. When did the change(s) in owner or operator occur?

12/05/2006

OWN

Tex-Wave Industries LLC

Tex-Wave Industries LLC

Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site:

Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

Any criminal convictions of the state of Texas and the federal government. B.

N/A

Chronic excessive emissions events. C.

The approval dates of investigations. (CCEDS Inv. Track. No.) D.

01/10/2006

(440274)

N/A

11/02/2007

(594953)

Written notices of violations (NOV). (CCEDS Inv. Track. No.)

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

Ν/Δ

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

Compliance History Report Customer/Respondent/Owner-Operator: CN603242256 Tex-Wave Management, LLC Classification: HIGH Rating: 0.00 Classification: HIGH Site Rating: 0.0 RN101979466 TWI GALVANIZING Regulated Entity: ID Number(s): NE0499W AIR NEW SOURCE PERMITS ACCOUNT NUMBER 50274 AIR NEW SOURCE PERMITS PERMIT INDUSTRIAL AND HAZARDOUS WASTE **ID NUMBER** 87740 **GENERATION** TXR000064535 INDUSTRIAL AND HAZARDOUS WASTE EPA ID **GENERATION** SOLID WASTE REGISTRATION # 87740 INDUSTRIAL AND HAZARDOUS WASTE **GENERATION** (SWR) 450 INDUSTRIAL AVE, ROBSTOWN, TX, 78380 Location: **REGION 14 - CORPUS CHRISTI** TCEQ Region: May 22, 2009 Date Compliance History Prepared: Agency Decision Requiring Compliance History: Enforcement May 22, 2004 to May 22, 2009 Compliance Period: TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Clinton Sims Phone: Name: Site Compliance History Components 1. Has the site been in existence and/or operation for the full five year compliance period? 2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes 3. If Yes, who is the current owner/operator? OWNOPR TEX WAVE INDUSTRIES LP **OWNOPR** Meecorp Capital Markets LLC OPR Tex-Wave Management, LLC Tex-Wave Industries LLC 4. if Yes, who was/were the prior owner(s)/operator(s)? OWN

5. When did the change(s) in owner or operator occur?

12/05/2006

OWN

Tex-Wave Industries LLC

6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

11/02/2007 (594953)

N/A

Written notices of violations (NOV). (CCEDS Inv. Track. No.)

EXHIBIT CH-2

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

Compliance History Report

CN603196544 CROFT, DAVID D Classification: HIGH Customer/Respondent/Owner-Operator: Regulated Entity: RN101979466 TWI GALVANIZING Classification: HIGH ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER AIR NEW SOURCE PERMITS PERMIT INDUSTRIAL AND HAZARDOUS WASTE **ID NUMBER GENERATION** INDUSTRIAL AND HAZARDOUS WASTE EPA ID **GENERATION** SOLID WASTE REGISTRATION # INDUSTRIAL AND HAZARDOUS WASTE

87740

Rating: 0.00

NE0499W

50274 87740

Site Rating: 0.0

TXR000064535

(SWR)

Location:

450 INDUSTRIAL AVE, ROBSTOWN, TX, 78380

TCEQ Region:

Date Compliance History Prepared:

REGION 14 - CORPUS CHRISTI

Agency Decision Requiring Compliance History:

May 22, 2009 Enforcement

GENERATION

Compliance Period:

May 22, 2004 to May 22, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

Clinton Sims

Phone:

239 - 6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

2. Has there been a (known) change in ownership/operator of the site during the compliance period?

Yes

3. If Yes, who is the current owner/operator?

OWNOPR

TEX WAVE INDUSTRIES LP

OWNOPR

Meecorp Capital Markets LLC

OPR

Tex-Wave Management, LLC

4. if Yes, who was/were the prior owner(s)/operator(s)?

Tex-Wave Industries LLC

OWN

5. When did the change(s) in owner or operator occur?

12/05/2006

OWN

Tex-Wave Industries LLC

Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site:

Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

В. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

The approval dates of investigations. (CCEDS Inv. Track. No.) D.

> 11/02/2007 (594953)

N/A

Written notices of violations (NOV). (CCEDS Inv. Track. No.)

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

Compliance History Report Rating: 0.00 Classification: HIGH CN603196551 GUILES, MONTY Customer/Respondent/Owner-Operator: Site Rating: 0.0 Classification: HIGH TWI GALVANIZING RN101979466 Regulated Entity: ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER NE0499W 50274 AIR NEW SOURCE PERMITS **PERMIT** INDUSTRIAL AND HAZARDOUS WASTE ID NUMBER 87740 GENERATION TXR000064535 INDUSTRIAL AND HAZARDOUS WASTE **EPA ID GENERATION** SOLID WASTE REGISTRATION # 87740 INDUSTRIAL AND HAZARDOUS WASTE **GENERATION** (SWR) 450 INDUSTRIAL AVE, ROBSTOWN, TX, 78380 Location: **REGION 14 - CORPUS CHRISTI** TCEQ Region: Date Compliance History Prepared: May 22, 2009 Agency Decision Requiring Compliance History: Enforcement Compliance Period: May 22, 2004 to May 22, 2009 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History' Phone: 239 - 6933 Clinton Sims Name: **Site Compliance History Components** 1. Has the site been in existence and/or operation for the full five year compliance period? 2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes 3. If Yes, who is the current owner/operator? TEX WAVE INDUSTRIES LP **OWNOPR OWNOPR** Meecorp Capital Markets LLC OPR Tex-Wave Management, LLC Tex-Wave Industries LLC

4. if Yes, who was/were the prior owner(s)/operator(s)?

OWN

5. When did the change(s) in owner or operator occur?

12/05/2006

OWN

Tex-Wave Industries LLC

Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site:

Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

Any criminal convictions of the state of Texas and the federal government. В.

C. Chronic excessive emissions events.

The approval dates of investigations. (CCEDS Inv. Track. No.) D.

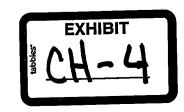
> 11/02/2007 (594953)

N/A

N/A

E.

Written notices of violations (NOV). (CCEDS Inv. Track. No.)



F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING TEX-WAVE	§	
INDUSTRIES, L.P., TEX-WAVE	§	TEXAS COMMISSION ON
MANAGEMENT, L.L.C., DAVID	§	
CROFT, AND MONTY GUILES;	§	
RN101979466	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1347-MLM-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles (collectively referred to as the "Respondents") under the authority of Tex. Water Code ch. 7 and Tex. Health & Safety Code chs. 361 and 382. The Executive Director of the TCEQ; represented by the Litigation Division; Tex-Wave Industries, L.P.; represented by Bradley Smith of Nicolas, Morris, Gilbreath, & Smith, LLP; and Tex-Wave Management, L.L.C., David Croft and Monty Guiles; represented by Rene Rodriquez of the Law Offices of Rene Rodriquez, appear before the Commission and together stipulate that:

- 1. Tex-Wave Industries, L.P. and Tex-Wave Management, L.L.C. owned and operated, and David Croft and Monty Guiles operate, a metal galvanizing facility located at 450 Industrial Avenue, Robstown, Nueces County, Texas (the "Facility").
- 2. This Agreed Order is entered into pursuant to Tex. Water Code §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to Tex. Water Code § 5.013 because it alleges violations of Tex. Health & Safety Code chs. 382 and 361 and TCEQ rules.
- 3. The Commission and Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondents are subject to the Commission's jurisdiction.
- 4. Respondents received notice of the violations alleged in Section II ("Allegations") on or about June 20, 2007.

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles DOCKET NO. 2007-1347-MLM-E Page 2

- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- An administrative penalty in the amount of thirty-eight thousand six hundred forty dollars 6. (\$38,640.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Respondents are jointly and severally liable for the administrative penalty of thirty-eight thousand six hundred forty dollars (\$38,640.00). Respondents have paid one thousand eight hundred forty dollars (\$1,840.00) of the administrative penalty. The remaining amount of thirty-six thousand eight hundred dollars (\$36,800.00) of the administrative penalty shall be payable in 23 monthly payments of one thousand six hundred dollars (\$1,600,00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondents' failure to meet the payment schedule of this Agreed Order constitutes the failure by the Respondents to timely and satisfactorily comply with all of the terms of this Agreed Order.
- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Respondents have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles DOCKET NO. 2007-1347-MLM-E Page 3

II. ALLEGATIONS

Respondents are alleged to have violated:

- 1. 30 Tex. Admin. Code § 106.375(2)(B) by failing to have hydrochloric acid in an enclosed building. Specifically, three acid tanks containing hydrochloric acid were located at the east end of a non-enclosed building, in which the tanks were opened to the atmosphere and lacked any type of emission control, as documented on March 7, 2007.
- 2. 30 Tex. Admin. Code § 335.6(c) by failing to update the Notice of Registration ("NOR") to reflect current site conditions. Specifically, Respondents did not update the NOR to include the inactive status of the Facility, as documented on March 7, 2007. The Facility has a continuing obligation to immediately document and notify the agency within 90 days of any such changes in the status of the Facility.
- 30 TEX. ADMIN. CODE §§ 335.9(a)(1), 335.13(i), 335.431(c) and 40 CODE OF FEDERAL REGULATIONS §§ 262.40(a) and 268.7(a)(8) by failing to maintain all records for hazardous and industrial waste activities, failing to maintain copies of each manifest for a minimum of three years from the date of shipment, and failing to maintain records for land disposal restrictions. Specifically, hazardous waste determination documentation, annual waste summary reports, source reduction/waste minimization plan, solid waste management unit inspection records, waste manifests, as well as land disposal restrictions documentation were unavailable, as documented on March 7, 2007.
- 4. 30 Tex. Admin. Code §§ 335.69(a)(1)(B), 335.112(a)(9) and 40 Code of Federal Regulations §§ 262.34(a)(1)(ii) and 265.197 by failing to comply with hazardous waste tank requirements and to conduct adequate tank closure. Specifically, Respondents had 90 days from the date the Facility ceased operations to remove approximately 370,000 gallons of acid and caustic waste found in seven of the eight tanks at the Facility. In addition, Respondents failed to properly close all eight tanks at the Facility, as documented on May 31, 2007.

III. DENIALS

Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Agreed Order

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles DOCKET NO. 2007-1347-MLM-E Page 4

resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles, Docket No. 2007-1347-MLM-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
- 3. Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondents shall:
 - i. Submit updates to the Notice of Registration ("NOR") to include the date in which operations ceased, in accordance with 30 Tex. ADMIN. CODE § 335.6(c). Submit copies of the NOR to the addresses listed in Ordering Provision 3.c. and submit the updated NOR to:

Registration and Reporting Section
Permitting and Remediation Support Division, MC 129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

ii. Maintain all records for hazardous and industrial waste activities, land disposal restrictions and retain copies of each manifest for a minimum of three years from the date of shipment. The records should include hazardous waste determination documentation, annual waste summary reports, source reduction/waste minimization plan, and solid waste management unit inspection records, in accordance with 30 Tex. ADMIN. CODE §§ 335.9(a)(1), 335.13(i), 335.431(c), 40 CODE OF FEDERAL REGULATIONS §§ 262.40(a) and 268.7(a)(8);

- iii. Notify the TCEQ concerning closure activities for the 8 tanks, in accordance with 30 Tex. Admin. Code § 335.112(a)(9) and 40 Code Federal Regulations § 265.197. Submit notification to the addresses listed in Ordering Provision 3.c.;
- b. Within 60 days after the effective date of this Agreed Order, Respondents shall:
 - i. Remove and properly dispose of approximately 370,000 gallons of acid and caustic waste found in the seven tanks at the Facility, in accordance with 30 Tex. Admin. Code § 335.69(a)(1)(B) and 40 Code of Federal Regulations § 262.34(a)(1)(ii);
 - ii. Close the 8 tanks at the Facility, in accordance with 30 Tex. ADMIN. CODE § 335.112(a)(9) and 40 CODE FEDERAL REGULATIONS § 265.197; and
- c. Within 75 days after the effective date of this Agreed Order, Respondents shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

With a copy to:

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles DOCKET NO. 2007-1347-MLM-E Page 6

Brad Genzer, Waste Section Manager Corpus Christi Regional Office Texas Commission on Environmental Quality 6300 Ocean Drive, Unit 5839 Corpus Christi, Texas 78412-5839

- 4. The provisions of this Agreed Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 5. If Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after at least one respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 7. This Agreed Order, issued by the Commission, shall not be admissible against Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 9. Under 30 Tex. Admin. Code § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Respondents, or three days after the date on which the Commission mails notice of the Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles DOCKET NO. 2007-1347-MLM-E Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Styllogical Director

6009819

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Tex-Wave Industries, L.P.'s compliance history;
- Greater scrutiny of any permit applications submitted by Tex-Wave Industries, L.P.;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- * Increased penalties in any future enforcement actions against Tex-Wave Industries, L.P.;
- * Automatic referral to the Attorney General's Office of any future enforcement actions against Tex-Wave Industries, L.P.; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Kenneth L. Berry

Name (Printed or typed)
Authorized representative of
Tex-Wave Industries, L.P.

Manager

Title

01/21/2009 11:53

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RODRIGUEZ LAW OFFICE

03/03 PAGE

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guller DOCKET NO. 2007-1347-MLM-R

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commis	sion		
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For the Executiv	e Director		

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Tex-Wave Management, L.L.C.'s compliance history;
- Greater soruting of any permit applications submitted by Tex-Wave Management, L.I.C.;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future coforcement actions against Tex-Wave Management;
- Automatic referral to the Afforney General's Office of any future enforcement actions against Tex-Wave Management, L.L.C.; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Kenneth L. Berry

Name (Printed or typed) Authorized representative of Tex-Wave Management, L.L.C. Manager

Title

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles DOCKET NO. 2007-1347-MLM-E Page 9

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
Structure Director	6/0/1009 Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Name (Printed or typed)

David Croft

Title

Former President and Director . of Tex-Wave Industries, LP and President and Officer of Tex-Wave Management, LLC

Tex-Wave Industries, L.P., Tex-Wave Management, L.L.C., David Croft, and Monty Guiles DOCKET NO. 2007-1347-MLM-E Page 10

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
Elmerra Perlue	4/8/7009
For the Executive Director	Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me: and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Name (Printed or typed

Monty Guiles

Former Manager and Officer of Tex-Wave Industries, LP and Director and Manager of Tex-Wave Management, LLC